

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA**

THE DINNER BELL CAFÉ, INC.,
BILL’S PIZZA PALM SPRINGS, and
BILL’S GRILL 1 LLC, individually and
on behalf of all others similarly situated,

Plaintiffs,

v.

NORTH AMERICAN BANCARD,
LLC,

Defendant.

Case No. 1:15-cv-03059-SCJ

MOTION TO DISMISS

Defendant North American Bancard, LLC (“NAB”) respectfully files this Motion to Dismiss Plaintiffs’ Class Action Complaint (the “Complaint”) under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). First, Plaintiffs fail to state a claim on which relief can be granted. Each of Plaintiffs’ six claims depend on an alleged contract between Plaintiffs and NAB, but, on the face of the contract on which Plaintiffs’ claims are based, it is plain and obvious that NAB has no contractual relationship with Plaintiffs. Second, Plaintiffs have brought this putative class action under the Class Action Fairness Act (“CAFA”), but they have failed to allege sufficient facts to establish that the amount in controversy under

CAFA has been satisfied. Accordingly, for these reasons, and the reasons set forth in the accompanying Memorandum of Law, the Complaint should be dismissed in its entirety.

Respectfully submitted this 30th day of October, 2015.

/s/ Tony G. Powers

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